



CITY OF DETROIT
LAW DEPARTMENT

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May 9, 2019

Beryl Lipton
MuckRock News
DEPT MR 69521
411A Highland Ave
Somerville, MA 02144-2516
69521-27146793@requests.muckrock.com

Via Email

RE: Freedom of Information Act Request No. A19-01492, Dated February 20, 2019, Concerning City of Detroit Records Pertaining to Facial Recognition Software

Dear Ms. Lipton:

This letter serves as the City of Detroit's partial response to the above-referenced matter. Your request was received at the City of Detroit Law Department FOIA Section on February 21, 2019. Thank you for your patience in this matter.

Your request asks in general for "Records and materials related to the solicitation, acquisition, and use of face recognition technology and related software and services." You state that "This software or services may be provided by Rekognition, Face++, and FaceFirst; this request is applicable to these and any other company providing facial recognition services under consideration or contract with this agency." You ask that we include in our search as responsive records "communications, memorandums, background papers, meeting minutes, email exchanges, or presentation materials." The date range of your request is from January 1, 2017 to the present.

Your request was submitted to the City of Detroit Police Department ("DPD") and the Office of Contracting and Procurement ("OCP"). The specific paragraphs of your request, and the responses to those paragraphs, are as follows:

- **Agreements: contracts (including non-disclosure agreements), licensing agreements, nondisclosure agreements**

OCP personnel have submitted the requested record, and after review by the Law Department, this portion of your request is granted. We are emailing with this response letter a 71-page contract between the City of Detroit and DataWorks Plus.

- **Bid records: Requests For Proposal (or equivalent calls for bids), sole source or limited source justification and approval documentation, documentation of**



selection, and other materials generated in the consideration and selection of the technology in question

City personnel have not yet located records responsive to this portion of your request.

- **Company relations and communications: records related to meetings or follow-up actions with any vendors, companies, or other private entities marketing face recognition to this agency for immigration, intelligence, law enforcement, or other use**

The Detroit Police Department, with the assistance of the Department of Information Technology ("DoIT"), has located five thousand, three hundred and thirty three (5,333) pages of emails in response to this portion of your request. Review and redaction of those emails by the Law Department will take an estimated sixty-six and one-half (66.5) hours of staff time at an hourly rate of \$28.84 plus benefits. This hourly rate is commensurate with the lowest paid personnel capable of performing the task in the respective department. See, Section 4(1) and (3) of the Michigan Freedom of Information Act, MCL 15.234(1) and (3). Accordingly, the City will incur estimated labor costs in the amount of Two Thousand Five Hundred Ninety Four and 83/100 Dollars (\$2,594.83) in order to comply with this portion of your request. As this response is more than ten (10) days past due, you are entitled to a reduction in labor costs of fifty percent (50%). Thus, the reduced labor cost is One Thousand Two Hundred Ninety Seven and 41/100 Dollars (\$1,297.41).

City personnel have not yet located OCP emails, if any, responsive to this portion of your request.

- **Financial records: purchase orders, invoices, and other memoranda and documentation.**

City personnel have not yet located records responsive to this portion of your request.

- **Marketing records: All marketing materials - unsolicited, requested, or otherwise - acquired from vendors of face recognition technology**

City personnel have not yet located records responsive to this portion of your request.

- **Policy records: any policy directives, guidance documents, memoranda, training materials, or similar records governing the use of face recognition technology for immigration, law enforcement, or other purposes.**

DPD personnel have submitted records in response to this portion of your request, and after review by the Law Department, this portion of your request is granted. We are emailing with this



response letter two DPD policies. One policy, headed "Use of Traffic Light-Mounted Cameras and Facial Recognition Technology," is three pages in length. The other policy, a Crime Intelligence Unit standard operating procedure headed "Facial Recognition," is nine pages in length.

- **Training records: training material governing the use, sharing, or access to any related data related to or collected by the face recognition software/technology, including the legal standard that is required before using the technology**

This portion of your request is denied pursuant to MCL 15.235(5)(b), for the reason that, based on information provided by DPD personnel, it is our understanding that DPD does not possess any record that corresponds to the description in your request. DPD further advises that the training materials it is working on are still in the approval process.

- **Use and function records: Materials that describe the function of the software considered or in use by this agency, including emails, handouts, PowerPoint presentations, advertisements, or specification documents.**

If you wish to proceed with the portion of your request concerning DPD emails, we require that you submit a deposit in the amount of one-half ($\frac{1}{2}$) of the **total** estimated cost (which includes copying and mailing costs in addition to the above-referenced labor costs), in accordance with MCL 15.234(8). The method by which this estimate was arrived at is set forth in the enclosed FOIA Fee Estimate form. Please forward your check or money order in the amount of **Six Hundred Forty Nine and 70/100 Dollars (\$649.70)** made payable to the "City of Detroit" to my attention no later than June 27, 2019. Please note that we do not accept cash.

Upon receipt of your deposit, in accordance with MCL 15.234(1) and (3), we will provide you with a supplemental written response outlining the information that has been exempted from the record, the legal authority for each exemption, and the cost for you to obtain a copy of the record. In that regard, please note that the City charges \$0.10 per page, \$0.25 per page for color laser copies and \$1.00 per computer disk (CD). *Please note that if we are not in receipt of your deposit by the above-referenced date, we will close our file on this request, pursuant to MCL 15.234(14).* We estimate review of the record will take four (4) months once we receive your deposit.

You can find the summary of the City of Detroit Freedom of Information Act procedures and guidelines at www.detroitmi.gov and specifically at www.detroitmi.gov/How-Do-I/File-Freedom-Of-Information-Act-FOIA.

Please note that pursuant to Section 10 and 10a of the Act, MCL 15.240 and 15.240a, a person receiving a written denial of a request or receiving a letter to submit the labor costs may do one of the following:



- 1) Submit a written appeal to the head of the public body denying the request. Such appeal, if submitted, should specifically state the word "appeal" and identify the reason or reasons for reversal of the disclosure denial. MCL 15.240(1)(a) and MCL 15.240a(1)(a); or
- 2) Commence an action in the circuit court to compel the disclosure of the public records within 180 days after the public body's denial of the request, MCL 15.240(1)(b), or 45 days after the public body's request for labor costs, MCL 15.240a(1)(b). If a court finds that the information withheld by a public body is not exempt from disclosure, or that the labor costs requested by the public body exceeds the amount permitted, the requesting party may receive the requested record and, at the discretion of the court, reasonable attorney fees and /or cost. MCL 15.240(6) and (7), and MCL 15.240a(6) and (7).

Very truly yours,

Karl Newman
Senior Assistant Corporation Counsel
FOIA Section
City of Detroit Law Department
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Email Address: newmank@detroitmi.gov

PARTIAL FOIA FEE ESTIMATE pursuant to MCL 15.234(8)

pursuant to MCL 15.234(4),
effective January 1, 2019

File Number: **A19-01492**

Line	Reference	Component	Amount	Subtotal	Total
1	§ 4(2)	Fringe benefit multiplier rate, maximum 50%	35.320%		
2	§ 4(1)(a)	Labor for searching & examining to fulfill request			
3		hourly wage of lowest paid employee capable of work			
4		fringe benefit multiplier @ 35.32%	135.3%		
5	Dept.	modified hourly wage = line 3* line 4			
6		number of hours, rounded down to .25 increment			
7		line 5 multiplied by line 6			
8		hourly wage of lowest paid employee capable of work			
9		fringe benefit multiplier @ 35.32%	135.3%		
10	Dept.	modified hourly wage = line 8* line 9			
11		number of hours, rounded down to .25 increment			
12		line 10 multiplied by line 11			
13		Estimated Total - Labor for searching & examining			\$0.00
14	§ 4(1)(b)	Labor for reviewing and redacting			
15		hourly wage of lowest paid employee capable of work	\$28.84		
16		fringe benefit multiplier @ 35.32%	135.3%		
17		modified hourly wage = line 15* line 16	\$39.02		
18		number of hours, rounded down to .25 increment	66.5		
19		line 17 multiplied by line 18		\$2,594.83	
20		Estimated Total - Labor for reviewing and redacting			\$2,594.83
21	§ 4(1)(e)	Labor for duplicating			
22		hourly wage of lowest paid employee capable of work			
23		fringe benefit multiplier @ 35.32%	135.3%		
24	Dept.	modified hourly wage = line 22* line 23			
25		Number of hours, rounded down to next increment			
26		line 24 multiplied by line 25			
27		hourly wage of lowest paid employee capable of work			
28		fringe benefit multiplier @ 35.32%	135.3%		
29	Dept.	Rev			
30		Number of hours, rounded down to next increment			
31		line 29 multiplied by line 30			
32		Estimated Total - Labor for duplicating			\$0.00
33		Estimated TOTAL Labor costs - sum of lines 13, 20, and 32:			\$2,594.83
34	§ 4(9)	Reduction in labor costs for late written response			
35		number of business days late	10		
36		reduction at 5% / day = 0.05 x line 35	50%		
37		maximum reduction	50%		
38		lesser of line 36 or line 37	50%		
39		Reduced amount = line 38 x line 33			(\$1,297.42)
40		Estimated Amount Chargeable for Labor Costs, after applicable reduction:			\$1,297.41

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FEE ESTIMATE

PARTIAL FOIA FEE ESTIMATE pursuant to MCL 15.234(8)

pursuant to MCL 15.234(4),
effective January 1, 2019

File Number: A19-01492

40	Estimated Amount Chargeable for Labor Costs, after applicable reduction		
	(copied from page 1):		\$1,297.41
41	§ 4(1)(d)	Estimated cost of paper copies	
42		number of 8½ x 11 or 8½ x 14 sheets	
43		price for 8½ x 11 or 8½ x 14 sheets	\$0.10
44		line 42 multiplied by line 43	
45		color or other size copies, size: ___ x ___	
46		actual price per page	
47		line 45 multiplied by line 46	
48		color or other size copies, size: ___ x ___	
49		actual price per page	
50		line 48 multiplied by line 49	
51		Total - estimated cost of paper copies	\$0.00
52	§ 4(1)(c)	Estimated cost of electronic media	
53		Number of CD's @ \$1.00	1 \$1.00
54		Number of Flash Drives	
55		Number of Tapes	
56		Other:	
57		Sum of lines 53 - 56	\$1.00
58		Total - estimated cost of electronic media	\$1.00
59		Estimated Costs of paper copies and electronic media - sum of lines 51 and 58:	\$1.00
60	§ 4(1)(f)	Estimated cost of mailing	\$1.00 \$1.00
61	§ 4(2)	Reduction for indigency or qualifying non-profit	
62		Affidavit/information provided: Y/N?	\$0.00
63		Estimated Net Charge after any reductions, but not less than zero	
		- sum of lines 40, 59, 60, and 62:	\$1,299.41
64		MAXIMUM AMOUNT FOR DEPOSIT -	
		50% of line 63, but only if line 63 exceeds \$50.00:	\$649.70
65		Sum of deposits, previous payments, other credits:	
66		CREDIT - for deposits and other previous payments:	\$0.00
67		DEPOSIT REQUIRED - Line 64 offset by line 66, but not less than zero:	\$649.70